HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.22511 of 2006

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Between:

P.Kiran Kumar Goud and another

……Petitioners

And

Union of India,
Rep., by its Secretary,
Ministry of Law, Justice and Company Affairs,
New Delhi and two others

……Respondents

:: ORDER ::

Counsel for the Petitioner : Shri B.Mahender Reddy

November 01, 2006

Per G.S. SINGHVI, CJ

In this petition filed under Article 226 of the Constitution of India, the petitioners have prayed for striking down Section 2 (2) of Representation of People Act, 1951 (for short, 'the 1951 Act') and Section 27 of Representation of People Act, 1950 (for short, 'the 1950 Act').

The petitioners are residents of Nizamabad. They possess the qualification of graduation and, as such, they are eligible to be enrolled as voters in Graduates' Constituencies of Karimnagar, Adilabad, Nizamabad and Medak Districts and also participate in the election. Their grievance is that in the process of preparation of electoral rolls, graduates are being discriminated qua teachers, inasmuch as, a graduate teacher can enroll himself as a voter for Teachers' Constituency and also for Graduates' Constituency and exercise two votes for the said constituencies, whereas similar facility has not been provided to other graduates. In paragraph 8 of his affidavit, petitioner No.1, P.Kiran Kumar Goud has averred that the possibility of enrolment of graduate teachers in two constituencies may enable them to elect eight representatives from Teachers' Constituency and eight representatives from Graduates' Constituency and thus Graduates' Constituency will become supplementary to Teachers' Constituency.

We have heard Shri B.Mahender Reddy, learned advocate for the petitioners. We have also gone through Section 2 (2) of the 1951 Act and Section 27 of the 1950 Act. Learned counsel for the petitioners could not show that either of the two sections, the constitutionality of which has been challenged in the writ petition, are beyond the legislative competence of the Parliament or are violative of any provision of the Constitution. He, however, tried to convince us to entertain the petition by saying that Election Commissioner of India has issued Circular dated 14-09-2006 for enabling the teacher-

graduates to get themselves registered in more than one constituency as defined in Section 2 (2) of the 1951 Act and participate in the impending elections to the Andhra Pradesh Legislative Council from two constituencies.

In our opinion, the aforementioned argument of the learned counsel cannot be accepted because the circular issued by Election Commissioner of India has not been placed on record and legality/vires thereof has not been questioned in the writ petition. Consequently, the writ petition is dismissed with liberty to the petitioners to file fresh petition, if so advised, to question the legality of Circular dated 14-09-2006.

As a sequel to dismissal of the writ petition, WPMP Nos. 28602 and 28603 of 2006 filed by the petitioners are also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

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